

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

KEVIN HENRY, Jr.,

Petitioner,

v.

UNKNOWN,

Respondent.

No. 2:20-cv-01064 GGH P

ORDER AND FINDINGS AND  
RECOMMENDATIONS

Petitioner, a state prisoner proceeding pro se, has filed a petition for writ of habeas corpus pursuant to 28 U.S.C. §2254. The matter was referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and Local Rule 302(c).

On May 26, 2020, petitioner filed a letter requesting information on federal habeas corpus and this district court's procedures. ECF No. 1. No other pleadings were filed by petitioner. On June 16, 2020, the undersigned granted petitioner thirty (30) days from the date of service of the order to file a habeas petition to properly commence this action. ECF No. 3. Petitioner was also directed to submit within thirty (30) days from the date of service of the order an application to proceed in forma pauperis, or the filing fee in the amount of \$5.00. Id. Petitioner was warned that failure to comply with the court's order would result in a recommendation that this matter be dismissed. Id. Petitioner did not comply, nor respond, to the court's orders within the requisite deadline. On July 31, 2020, the court issued an order to show cause ordering petitioner to show

1 cause within 14 days, why this matter should not be dismissed for failure to prosecute and/or to  
2 follow a court order pursuant to Federal Rules of Civil Procedure 41(b). ECF No. 4. Petitioner  
3 was further informed that the filing of a habeas petition and in forma pauperis affidavit, or  
4 payment of the required filing fee, within the timeframe would serve as cause and would  
5 discharge the court's order to show cause. Id. Petitioner has not responded to the court's orders,  
6 nor taken any action to prosecute this case.

7 Therefore, IT IS HEREBY ORDERED that the Clerk of the Court randomly assign a  
8 district judge to this case.

9 Further, IT IS HEREBY RECOMMENDED that this action be dismissed, without  
10 prejudice, for lack of prosecution and for failure to comply with the court's order. See Fed. R.  
11 Civ. P. 41(b); Local Rule 110.

12 These findings and recommendations are submitted to the United States District Judge  
13 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
14 after being served with these findings and recommendations, petitioner may file written  
15 objections with the court. The document should be captioned "Objections to Magistrate Judge's  
16 Findings and Recommendations." Any response to the objections shall be filed and served within  
17 fourteen days after service of the objections. Petitioner is advised that failure to file objections  
18 within the specified time may waive the right to appeal the District Court's order. Martinez v.  
19 Ylst, 951 F.2d 1153 (9th Cir. 1991).

20 Dated: August 31, 2020

21 /s/ Gregory G. Hollows  
22 UNITED STATES MAGISTRATE JUDGE  
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